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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Oscar Nester,

10 Plaintiff,

11 v.

12 Charles L. Ryan, et al.,

13 Defendants.

No. CV-15-01700-PHX-SMM

ORDER

14 Pending before the Court is Plaintiff's Motion for Extension of Time to Prepare
15 His Motion for Leave to File a First Amended Complaint (Doc. 10); and Plaintiff's
16 Motion for Leave of the Court to File a First Amended Complaint ("FAC") (Doc. 11).
17 Magistrate Judge Deborah M. Fine performed a screen on Plaintiff's complaint pursuant
18 to 28 U.S.C. § 1915A(a). On January 21, 2016, the Magistrate Judge filed a Report and
19 Recommendation with this Court . (Doc. 15.) To date, no objections have been filed.
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21 **STANDARD OF REVIEW**

22 The Court "may accept, reject, or modify, in whole or in part, the findings or
23 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1)(C); see Baxter v.
24 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991). Parties have fourteen days from the
25 service of a copy of the Magistrate's recommendation within which to file specific
26 written objections to the Court. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72. Failure to
27 object to a Magistrate Judge's recommendation relieves the Court of conducting *de novo*
28 review of the Magistrate Judge's factual findings and waives all objections to those

1 findings on appeal. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998). A failure
2 to object to a Magistrate Judge's conclusion "is a factor to be weighed in considering the
3 propriety of finding waiver of an issue on appeal." Id.

4 5 **DISCUSSION**

6 Having reviewed the Report and Recommendation of the Magistrate Judge, and no
7 Objections having been made by any party thereto, the Court hereby incorporates and
8 adopts the Magistrate Judge's Report and Recommendation.

9 10 **CONCLUSION**

11 Accordingly, for the reasons set forth,

12 **IT IS HEREBY ORDERED** that the Court adopts the Report and
13 Recommendation of the Magistrate Judge. (Doc. 15.)

14 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Extension of Time to
15 Prepare His Motion for Leave to File a First Amended Complaint as a Matter of Course
16 (Doc. 10) be **denied**.

17 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Leave of the Court to
18 File a First Amended Complaint (Doc. 11) be **granted**, and that Plaintiff be allowed to
19 file his FAC. Plaintiff shall file his FAC by **February 26, 2016**.

20 **IT IS FURTHER ORDERED** that Defendants Charles Ryan and Corizon Health
21 shall answer Counts I and II of the FAC, but not Count V as it is duplicative. Defendant
22 Dr. Arlene McKamey shall answer Count III of the FAC, but not Count V as it is
23 duplicative. Defendant Dr. Michael Hegmann shall answer Count IV of the FAC, but not
24 Count V as it is duplicative. Defendants Dr. Mulhen and Kerry Byrd shall answer Count
25 V of the FAC.


26 **IT IS FURTHER ORDERED** that Defendants Wexford Health Sources, Inc.

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1 and Assistant FHA Howley be dismissed.

2 Dated this 9th day of February, 2016.

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5 Honorable Stephen M. McNamee
6 Senior United States District Judge
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